

REMARKS/ARGUMENTS

Applicants have received and carefully reviewed the Final Office Action mailed August 25, 2009. Currently, claims 5-31, 52, 54-72, and 74-95 are pending, with claims 5-31 previously withdrawn from consideration. Claims 52, 54-72, and 74-95 have been rejected. Applicants respectfully traverse all adverse assertions and rejections presented in the Office Action. Favorable consideration of the following remarks is respectfully requested.

Claim Rejections – 35 USC § 102

Claims 52, 54, 55, 57-63, 70-72, 74, 75, 77-83, and 90-95 were rejected under 35 U.S.C. §102(e) as anticipated by Wholey et al. (U.S. Patent No. 6,652,554). After careful review, Applicants must respectfully traverse the rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)...“The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (MPEP 2131).

The Office Action asserts that Wholey et al. disclose “first and second tapered portions include portions that “generally linearly”” [sic], stating that the “amended limitation merely requires the structure having two points that are “generally linearly”” [sic]. The Office Action goes on to arbitrarily designate two lines as corresponding to the portions that are generally linear. Applicants believe that the disclosure of Wholey et al. has been mischaracterized.

The pending claims require a membrane having two distinct tapered portions that define two different included angles. Wholey et al. appear to disclose a single cup-shaped filter segment formed with a curved surface, as evidenced by Figures 1 and 2. Regardless of if it is even possible for the filter of Wholey et al. to be considered tapered, one skilled in the art will recognize that Wholey et al. disclose a curved filter surface. In making the rejection, the Examiner has added lines to Figure 1 of Wholey et al. that appear to define two different angles relative to a central longitudinal axis of the filter.

However, one skilled in the art will certainly recognize that a straight line can only touch a curved surface at a single point, the point of tangency. Since the constantly curving surface of the filter can only touch the line at a single point, the curved surface of the filter cannot be considered to be linear anywhere along its extent.

Similarly, Applicants readily recognize that only two points are required to define a line. However, a line connecting two arbitrary points on a 3-D curved surface or membrane will intersect that surface or membrane, rather than lie along it. A line intersecting a 3-D curved surface or membrane cannot be considered to be a generally linear portion of that surface or membrane. Therefore, Applicants are unclear and indeed completely confused as to how Wholey et al. can be reasonably considered as reading on the pending claims.

For at least the reasons discussed above, Wholey et al. do not appear to disclose each and every element set forth in the claims in as complete detail as is found in independent claims 52 and 72. Therefore, Wholey et al. cannot anticipate the claims. Since claims 54, 55, 57-63, 70-71, 74, 75, 77-83, and 90-95 depend from claims 52 and 72 and add additional limitations thereto, Applicants believe these claims are also not anticipated by Wholey et al. Therefore, Applicants respectfully request that the rejection be withdrawn.

Claim Rejections – 35 USC § 103

Claims 56 and 76 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wholey et al., as applied to claims 52 and 72, in view of Daniel et al. (U.S. Patent No. 5,814,064). After careful review, Applicants must respectfully traverse this rejection.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP 2143.03).

For at least the reasons set forth above, Wholey et al. do not appear to teach each and every element of independent claims 52 and 72. Daniel et al. do not appear to remedy the shortcomings of Wholey et al. with respect to claims 52 and 72. Therefore, claims 52 and 72 are believed to be patentable over the cited combination. Since claims

56 and 76 depend therefrom and add additional elements thereto, these claims are also believed to be patentable over the cited combination. Applicants respectfully request that the rejection be withdrawn.

Claims 64-69 and 84-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wholey et al., as applied to claims 52 and 72, in view of Mazzocchi et al. (U.S. Patent No. 6,605,1024). After careful review, Applicant must respectfully traverse this rejection.

For at least the reasons set forth above, Wholey et al. do not appear to teach each and every element of independent claims 52 and 72. Mazzocchi et al. do not appear to remedy the shortcomings of Wholey et al. with respect to claims 52 and 72. Therefore, claims 52 and 72 are believed to be patentable over the cited combination. Since claims 56 and 76 depend therefrom and add additional elements thereto, these claims are also believed to be patentable over the cited combination. Applicants respectfully request that the rejection be withdrawn.

Conclusion

In view of the foregoing, all pending claims are believed to be in condition for allowance. Further examination and withdrawal of the rejections are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: Oct. 14, 2009



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